

Adopted	Rejected
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## COMMITTEE REPORT

YES:	10
NO:	0

### MR. SPEAKER:

*Your Committee on Judiciary, to which was referred Senate Bill 227, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1           Page 1, between lines 7 and 8, begin a new paragraph and insert:
- 2           "SECTION 2. IC 4-33-5-1.5, AS ADDED BY P.L.125-2006,
- 3           SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4           UPON PASSAGE]: Sec. 1.5. The following information submitted,
- 5           collected, or gathered as part of an application to the commission for
- 6           a license is confidential for purposes of IC 5-14-3-4:
- 7           (1) Any information concerning a minor child of an applicant.
- 8           (2) The Social Security number of an applicant or the spouse of
- 9           an applicant.
- 10          (3) The home telephone number of an applicant or the spouse of
- 11          an applicant.
- 12          (4) An applicant's birth certificate.
- 13          (5) An applicant's driver's license number.
- 14          (6) The name or address of a previous spouse of the applicant.
- 15          (7) The date of birth of the spouse of an applicant.
- 16          (8) The place of birth of the spouse of an applicant.

(9) The personal financial records of an applicant or the spouse or minor child of an applicant.

**(10) Any information concerning a victim of domestic violence or sexual assault."**

Page 6, between lines 25 and 26, begin a new paragraph and insert:

"SECTION 5. IC 35-33-8-3.2, AS AMENDED BY P.L.1-2007, SECTION 226, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3.2. (a) A court may admit a defendant to bail and impose any of the following conditions to assure the defendant's appearance at any stage of the legal proceedings, or, upon a showing of clear and convincing evidence that the defendant poses a risk of physical danger to another person or the community, to assure the public's physical safety:

(1) Require the defendant to:

(A) execute a bail bond with sufficient solvent sureties;

(B) deposit cash or securities in an amount equal to the bail;

(C) execute a bond secured by real estate in the county, where thirty-three hundredths (0.33) of the true tax value less encumbrances is at least equal to the amount of the bail;

(D) post a real estate bond; or

(E) perform any combination of the requirements described in clauses (A) through (D).

If the court requires the defendant to deposit cash or cash and another form of security as bail, the court may require the defendant and each person who makes the deposit on behalf of the defendant to execute an agreement that allows the court to retain all or a part of the cash to pay publicly paid costs of representation and fines, costs, fees, and restitution that the court may order the defendant to pay if the defendant is convicted. The defendant must also pay the fee required by subsection (d).

(2) Require the defendant to execute:

(A) a bail bond by depositing cash or securities with the clerk of the court in an amount not less than ten percent (10%) of the bail; and

(B) an agreement that allows the court to retain all or a part of the cash or securities to pay fines, costs, fees, and restitution that the court may order the defendant to pay if the defendant is convicted.

1 A portion of the deposit, not to exceed ten percent (10%) of the  
2 monetary value of the deposit or fifty dollars (\$50), whichever is  
3 the lesser amount, may be retained as an administrative fee. The  
4 clerk shall also retain from the deposit under this subdivision  
5 fines, costs, fees, and restitution as ordered by the court, publicly  
6 paid costs of representation that shall be disposed of in  
7 accordance with subsection (b), and the fee required by  
8 subsection (d). In the event of the posting of a real estate bond,  
9 the bond shall be used only to insure the presence of the  
10 defendant at any stage of the legal proceedings, but shall not be  
11 foreclosed for the payment of fines, costs, fees, or restitution. The  
12 individual posting bail for the defendant or the defendant  
13 admitted to bail under this subdivision must be notified by the  
14 sheriff, court, or clerk that the defendant's deposit may be  
15 forfeited under section 7 of this chapter or retained under  
16 subsection (b).

17 (3) Impose reasonable restrictions on the activities, movements,  
18 associations, and residence of the defendant during the period of  
19 release.

20 (4) Require the defendant to refrain from any direct or indirect  
21 contact with an individual, **including if the defendant has not**  
22 **been released from lawful detention.**

23 (5) Place the defendant under the reasonable supervision of a  
24 probation officer, pretrial services agency, or other appropriate  
25 public official. If the court places the defendant under the  
26 supervision of a probation officer or pretrial services agency, the  
27 court shall determine whether the defendant must pay the pretrial  
28 services fee under section 3.3 of this chapter.

29 (6) Release the defendant into the care of a qualified person or  
30 organization responsible for supervising the defendant and  
31 assisting the defendant in appearing in court. The supervisor shall  
32 maintain reasonable contact with the defendant in order to assist  
33 the defendant in making arrangements to appear in court and,  
34 where appropriate, shall accompany the defendant to court. The  
35 supervisor need not be financially responsible for the defendant.

36 (7) Release the defendant on personal recognizance unless:

37 (A) the state presents evidence relevant to a risk by the  
38 defendant:

1 (i) of nonappearance; or  
 2 (ii) to the physical safety of the public; and  
 3 (B) the court finds by a preponderance of the evidence that the  
 4 risk exists.

5 (8) Impose any other reasonable restrictions designed to assure  
 6 the defendant's presence in court or the physical safety of another  
 7 person or the community.

8 (b) Within thirty (30) days after disposition of the charges against  
 9 the defendant, the court that admitted the defendant to bail shall order  
 10 the clerk to remit the amount of the deposit remaining under subsection  
 11 (a)(2) to the defendant. The portion of the deposit that is not remitted  
 12 to the defendant shall be deposited by the clerk in the supplemental  
 13 public defender services fund established under IC 33-40-3.

14 (c) For purposes of subsection (b), "disposition" occurs when the  
 15 indictment or information is dismissed or the defendant is acquitted or  
 16 convicted of the charges.

17 (d) Except as provided in subsection (e), the clerk of the court shall:

18 (1) collect a fee of five dollars (\$5) from each bond or deposit  
 19 required under subsection (a)(1); and

20 (2) retain a fee of five dollars (\$5) from each deposit under  
 21 subsection (a)(2).

22 The clerk of the court shall semiannually remit the fees collected under  
 23 this subsection to the board of trustees of the public employees'  
 24 retirement fund for deposit in the special death benefit fund. The fee  
 25 required by subdivision (2) is in addition to the administrative fee  
 26 retained under subsection (a)(2).

27 (e) With the approval of the clerk of the court, the county sheriff  
 28 may collect the bail posted under this section. The county sheriff shall  
 29 remit the bail to the clerk of the court by the following business day  
 30 and remit monthly the five dollar (\$5) special death benefit fee to the  
 31 county auditor.

32 (f) When a court imposes a condition of bail described in subsection  
 33 (a)(4):

34 (1) the clerk of the court shall comply with IC 5-2-9; and

35 (2) the prosecuting attorney shall file a confidential form  
 36 prescribed or approved by the division of state court  
 37 administration with the clerk.

38 SECTION 6. IC 35-37-6-1 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. **(a)** As used in this chapter, "confidential communication" means any information:

(1) exchanged between a victim and a victim ~~counselor~~ **advocate** in private or in the presence of a third party who is necessary to facilitate communication or further the counseling process; and **the course of the relationship between the victim and the victim advocate;**

(2) **exchanged or** disclosed in the course of the counselor's treatment of the victim for any emotional or psychological condition resulting from a covered act; **a support group in which a victim is or was a participant; or**

(3) **exchanged in the presence of a third person who facilitates or facilitated communication between a victim and a victim advocate.**

**(b)** The term includes communication that is verbal or written and includes:

(1) advice;

(2) notes;

(3) reports;

(4) statistical data;

(5) memoranda;

(6) working papers;

(7) records; and

(8) personally identifying information;

**produced in the course of advocating for a victim.**

SECTION 7. IC 35-37-6-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.5. **(a)** As used in this chapter, "confidential information" includes:

(1) personally identifying information;

(2) descriptions of physical appearance;

(3) the case file; and

(4) the case history;

**of a person who seeks, receives, or has received services from a victim advocate.**

**(b)** The term does not include:

(1) information disclosed to a victim service provider or a victim advocate if the victim:

- 1 (A) files criminal charges;
- 2 (B) institutes a civil lawsuit; or
- 3 (C) reports allegations of criminal conduct to a law
- 4 enforcement agency;
- 5 against the victim service provider or victim advocate; and
- 6 (2) alleged child abuse or neglect that is required to be
- 7 reported under IC 31-33.

8 SECTION 8. IC 35-37-6-2.5 IS ADDED TO THE INDIANA CODE  
 9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 10 1, 2008]: Sec. 2.5. (a) As used in this chapter, "personally  
 11 identifying information" means information that identifies a victim  
 12 or the location where domestic violence, dating violence, sexual  
 13 assault, or stalking occurred, including the victim's:

- 14 (1) name;
- 15 (2) mailing and physical address;
- 16 (3) electronic mail address;
- 17 (4) Internet protocol address;
- 18 (5) telephone numbers, including facsimile numbers;
- 19 (6) Social Security number;
- 20 (7) date of birth;
- 21 (8) racial or ethnic background; and
- 22 (9) religious affiliation.

23 (b) The term includes any other information that, in  
 24 combination with other nonpersonally identifying information,  
 25 would identify an individual.

26 SECTION 9. IC 35-37-6-3 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. As used in this  
 28 chapter, "victim" means an individual:

- 29 (1) against whom ~~a covered act~~ **an act of domestic violence,**
- 30 **dating violence, sexual assault, or stalking** is committed; or
- 31 (2) other than an individual who is accused of committing ~~a~~
- 32 ~~covered act,~~ **an act of domestic violence, dating violence, sexual**
- 33 **assault, or stalking** who is the parent, stepparent, child,
- 34 stepchild, grandparent, grandchild, sibling, aunt, uncle, niece, or
- 35 nephew of the individual described in subdivision (1); **a family**
- 36 **member other than a family member who is accused of**
- 37 **committing an act of domestic violence, dating violence,**
- 38 **sexual assault, or stalking.**

SECTION 10. IC 35-37-6-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 3.5. (a) As used in this chapter, "victim advocate" means an individual employed, appointed, or who volunteers for a victim services provider.**

**(b) The term does not include:**

- (1) a law enforcement officer;**
- (2) an employee or agent of a law enforcement officer;**
- (3) a prosecuting attorney; or**
- (4) an employee or agent of a prosecuting attorney's office.**

**(c) The term includes an employee, an appointee, or a volunteer of a:**

- (1) victim services provider;**
- (2) domestic violence program;**
- (3) sexual assault program;**
- (4) rape crisis center;**
- (5) battered women's shelter;**
- (6) transitional housing program for victims of domestic violence; or**
- (7) program that as one (1) of its primary purposes is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking.**

**(d) The term may apply to an individual who does not maintain an office or does not meet with a victim in person.**

SECTION 11. IC 35-37-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 5. As used in this chapter, "victim ~~counseling center~~ service provider" means:**

- (1) a public agency;**
- (2) a unit of a public agency; or**
- (3) an organization that is exempt from federal income taxation under Section 501 of the Internal Revenue Code;**

**that is not affiliated with a law enforcement agency, and has, as one (1) of its primary purposes, ~~the treatment of~~ to provide services to victims for emotional and psychological conditions that occur as a result of covered acts: domestic violence, dating violence, sexual assault, or stalking.**

SECTION 12. IC 35-37-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 8. This chapter does not**

1 relieve a victim ~~counselor~~ **advocate** of any duty to report suspected  
 2 abuse, neglect, battery, or exploitation under IC 12-10-3, IC 31-33, or  
 3 IC 35-46-1-13.

4 SECTION 13. IC 35-37-6-9 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) The following  
 6 persons **or entities** may not be compelled to give testimony, ~~or~~ to  
 7 produce records, **or to disclose any information** concerning  
 8 confidential communications **and confidential information to anyone**  
 9 **or** in any judicial, legislative, or administrative proceeding:

10 (1) A victim.

11 (2) A victim ~~counselor~~, **advocate or victim service provider**  
 12 unless the victim **specifically** consents to the disclosure **in a**  
 13 **written authorization that contains the date the consent**  
 14 **expires.**

15 (3) ~~An unemancipated child less than eighteen (18) years of age~~  
 16 ~~or an incapacitated victim; unless a custodial parent, custodian,~~  
 17 ~~guardian, or guardian ad litem who is not accused of a covered act~~  
 18 ~~consents to the disclosure.~~

19 (b) A victim ~~counselor~~ **advocate, victim service provider, or a**  
 20 victim may not be compelled to provide testimony in any judicial,  
 21 legislative, or administrative proceeding that would identify the name,  
 22 address, location, or telephone number of any facility that provided  
 23 temporary emergency shelter to the victim of the offense or transaction  
 24 that is the subject of the proceeding unless the facility is a party to the  
 25 proceeding.

26 (c) **A victim service provider or victim advocate may not require**  
 27 **a victim to consent to the disclosure of information concerning**  
 28 **confidential communications and confidential information as a**  
 29 **condition of the victim receiving services.**

30 (d) **This section does not prohibit a victim from providing**  
 31 **testimony concerning an offense.**

32 (e) **The consent to disclose information on behalf of:**

33 (1) **a child who is less than eighteen (18) years of age and is**  
 34 **unemancipated; or**

35 (2) **an incapacitated victim;**

36 **may be made by a custodial parent, custodian, guardian, guardian**  
 37 **ad litem in a written authorization that contains the date the**  
 38 **consent expires.**

(f) A consent under subsection (e) may not be given by a custodial parent, custodian, guardian, or guardian ad litem of the victim if the custodial parent, custodian, guardian, or guardian ad litem:

- (1) committed; or
  - (2) is alleged to have committed;
- an offense against the victim.

SECTION 14. IC 35-37-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. A victim ~~counselor~~ **advocate** may not waive the protections afforded to a victim under this chapter. However, if:

- (1) a victim brings suit against a victim ~~counselor~~, **advocate** or victim ~~counseling center service provider~~ in which the victim ~~counselor~~ **advocate** was employed or served as a volunteer at the time of the counseling relationship; and
  - (2) the suit alleges malpractice during the ~~counseling~~ relationship;
- the victim ~~counselor~~ **advocate** may testify or produce records regarding confidential communications with the victim and is not liable for doing so.

SECTION 15. IC 35-37-6-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 13. (a) Except as provided in subsection (d):**

- (1) a victim; or
  - (2) in the case of a deceased victim, the victim's personal representative;
- may authorize a victim advocate or victim service provider to release confidential information or other information by signing a written authorization that specifies what information will be released and to whom the information will be released.

(b) The authorization described in subsection (a) must include a date the authorization expires.

(c) A victim advocate shall make reasonable attempts to notify a victim when a victim service provider or victim advocate is required to disclose confidential information or confidential communications.

(d) A consent for release may not be given by a personal representative of the victim if the personal representative:

- (1) abused or killed the victim;**
- (2) is alleged to have abused or killed the victim; or**
- (3) assisted another person in abusing or killing the victim.**

SECTION 16. IC 35-37-6-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 14. A victim does not waive any privileges or confidentiality protections under this chapter if the victim:**

- (1) testifies about underlying acts of domestic violence, dating violence, sexual assault, or stalking; or**
- (2) reveals that he or she used or attempted to use the services of a victim service provider or victim advocate.**

SECTION 17. IC 35-37-6-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 15. The partial disclosure of a confidential communication under this chapter does not waive any privilege concerning the remainder of the confidential communication.**

SECTION 18. IC 35-37-6-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 16. The fact that a victim or victim advocate refuses to testify or disclose information because of a privilege under this chapter does not raise any negative inferences or presumptions.**

SECTION 19. IC 35-37-6-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 17. A victim service provider may disclose information in the aggregate that does not identify a victim regarding services and demographic information to comply with federal or state data collection requirements.**

SECTION 20. IC 35-38-1-30 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 30. A sentencing court may require that, as a condition of a person's executed sentence, the person shall refrain from any direct or indirect contact with an individual.**

SECTION 21. IC 35-46-1-15.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 15.1. A person who**

- 1 knowingly or intentionally violates:
- 2 (1) a protective order to prevent domestic or family violence
- 3 issued under IC 34-26-5 (or, if the order involved a family or
- 4 household member, under IC 34-26-2 or IC 34-4-5.1-5 before
- 5 their repeal);
- 6 (2) an ex parte protective order issued under IC 34-26-5 (or, if the
- 7 order involved a family or household member, an emergency
- 8 order issued under IC 34-26-2 or IC 34-4-5.1 before their repeal);
- 9 (3) a workplace violence restraining order issued under
- 10 IC 34-26-6;
- 11 (4) a no contact order in a dispositional decree issued under
- 12 IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or IC 31-6-4-15.4
- 13 or IC 31-6-4-15.9 before their repeal) or an order issued under
- 14 IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the
- 15 person to refrain from direct or indirect contact with a child in
- 16 need of services or a delinquent child;
- 17 (5) a no contact order issued as a condition of pretrial release,
- 18 including release on bail or personal recognizance, or pretrial
- 19 diversion;
- 20 (6) a no contact order issued as a condition of probation;
- 21 (7) a protective order to prevent domestic or family violence
- 22 issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2 before
- 23 their repeal);
- 24 (8) a protective order to prevent domestic or family violence
- 25 issued under IC 31-14-16-1 in a paternity action;
- 26 (9) a no contact order issued under IC 31-34-25 in a child in need
- 27 of services proceeding or under IC 31-37-25 in a juvenile
- 28 delinquency proceeding;
- 29 (10) an order issued in another state that is substantially similar
- 30 to an order described in subdivisions (1) through (9); or
- 31 (11) an order that is substantially similar to an order described in
- 32 subdivisions (1) through (9) and is issued by an Indian:
- 33 (A) tribe;
- 34 (B) band;
- 35 (C) pueblo;
- 36 (D) nation; or
- 37 (E) organized group or community, including an Alaska
- 38 Native village or regional or village corporation as defined in

1           or established under the Alaska Native Claims Settlement Act  
 2           (43 U.S.C. 1601 et seq.);  
 3           that is recognized as eligible for the special programs and services  
 4           provided by the United States to Indians because of their special  
 5           status as Indians;  
 6           **(12) an order issued under IC 35-33-8-3.2; or**  
 7           **(13) an order issued under IC 35-38-1-30;**  
 8           commits invasion of privacy, a Class A misdemeanor. However, the  
 9           offense is a Class D felony if the person has a prior unrelated  
 10          conviction for an offense under this section."  
 11          Page 6, between lines 27 and 28, begin a new paragraph and insert:  
 12          "SECTION 23. THE FOLLOWING ARE REPEALED  
 13          [EFFECTIVE JULY 1, 2008]: IC 35-37-6-2; IC 35-37-6-4;  
 14          IC 35-37-6-6."  
 15          Page 7, line 6, delete "(a)," and insert "**(a)**".  
 16          Renumber all SECTIONS consecutively.  
           (Reference is to SB 227 as printed January 18, 2008.)

**and when so amended that said bill do pass.**

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Representative Lawson L